



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

The Honorable Preston Poole  
Garza County Attorney  
Garza County Courthouse  
P.O. Box 296  
Post, Texas 79356

Letter Opinion No. 95-086

Re: Whether an individual must have  
resided in a county for six months prior  
to his or her appointment as county  
attorney (ID# 36426)

Dear Mr. Poole:

You have requested our opinion regarding the six-month county residency requirement for an individual who is appointed county attorney. You indicate that you contemplate resigning your position as of January 1, 1996, and that "the attorney applying for [the] appointment . . . will have only been in the county for 2 months."

In order to be eligible for appointment as county attorney, a person must be a "licensed attorney." Gov't Code § 41.001. In addition, article XVI, section 14, of the Texas Constitution requires that all district or county officers "reside within the State and . . . within their districts or counties." Furthermore, section 141.001, Election Code, provides the following:

(a) *To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:*

...

(5) *have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:*

...

(E) for an appointee to an office, *the date the appointment is made . . . .* [Emphasis added.]

*See Jordan v. Crudginton*, 231 S.W.2d 641, 646 (Tex. 1950).

Since the office of county attorney is a "public elective office," Tex. Const. art. V, § 21, it is clear that, in order to be eligible to hold the office, a prospective appointee must have been a resident of the county for six months immediately preceding the date of his or her appointment. In the situation you pose, the individual in question, having lived in the

county for only two months on January 1, 1996, will thus not be eligible for appointment as county attorney on that date.

**S U M M A R Y**

In order to be eligible for appointment as county attorney, an individual must have resided in the county for at least six months immediately preceding the date of appointment.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Rick Gilpin". The signature is fluid and cursive, with a prominent "R" and "G".

Rick Gilpin  
Deputy Chief  
Opinion Committee